

BEFORE THE DEPARTMENT OF TRANSPORTATION  
OFFICE OF AVIATION ENFORCEMENT AND PROCEEDINGS  
WASHINGTON, D.C.

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	)	
Eliyohu Labkowski,	)	
third-party complainant	)	
	)	
v.	)	Docket DOT-OST-2022_____
	)	
Qantas Airways	)	
	)	
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**COMPLAINT OF ELIYOHU LABKOWSI**

Comments with respect to this document should be addressed to:

Eliyohu Labkowski

1430 Carroll St, Brooklyn NY 11213

E-mail: Eli1@hotmail.fr

Dated: 6/14/2022

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OFFICE OF AVIATION ENFORCEMENT AND PROCEEDINGS  
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**COMPLAINT OF ELIYOHU LABKOWSKI**

1. This complaint arises out of the cancellation of three award tickets booked on the airline's website Qantas.com and where the miles were deducted from account and tickets were cancelled fifteen days later

**I. FACTS**

**A. Booking**

2. I booked three award tickets in Premium Economy class for my 3 kids on 3/15 on Qantas.com going from TLV-JFK on ELAL. Points were deducted from my account, and I received a confirmation number. A few days later, I logged onto ELAL's website to select seats on the flight, as my wife and I are flying on that same flight and wanted to sit close to my children. However, the system not allowing me to do so.

3. On 4/2, after realizing that I would not be able to select my children's seats, I called up Qantas Airways to clarify the situation of my children's tickets. The rep told me that they would call me back within 24 hours, which never happened. After

trying to call again, I was unsuccessful in reaching any agent. The wait time was incredibly long, and after 2 hours of wait on hold, the call dropped.

4. I therefore filed a DOT complaint on 4/8 requesting that Qantas reissue my children's' tickets. Since then, I received one phone call from Qantas at 2:15AM on 5/26 where the rep informed me that she is unable to do anything for me.

5. On top of this, I still have to purchase one additional ticket for another passenger on the same ELAL flight. That flight was \$1,200 back in March, but I was unable to purchase it at the time due to this ticket situation. Since then, all flight prices have increased. Today, the same tickets will cost me \$2,057.45.

6. Lastly, regarding my stay, the apartment and car that I rented at my destination are paid in full and have a non-refundable policy.

7. At this time there are 2 options:

1. Qantas should reissue my 3 tickets on this exact flight (as I have two confirmed tickets for my wife and me) and pay the difference for the additional ticket of \$857.45.
2. Should they decline to reissue the tickets, Qantas would be liable to reimburse me for all non refundable expenses from my trip . (7 O/W flights from CDG To TLV, house rental , car rental, etc...)

#### **B. Cancellation**

8. My children's tickets were cancelled overnight after calling Qantas and letting them know that I wasn't able to choose seats for my kids on 4/2

**C. Current Status**

9. I have no answer from Qantas since filing the DOT complaint back in the beginning of April. The 60 days where the airline was required to respond with a solution have passed without any update from them.

**II. LEGAL ANALYSIS**

**A. Explain applicable DOT regulation**

DOT rule Enhancing Airline Passenger Protections, 76 Fed. Reg. 23110- 01, requires:

When an airline cancels a flight, they must offer an alternative travel option or a full refund.

10. DOT rule 399.88 Enforcement policy requires:

(2) reimburses all consumers who purchased a mistaken fare ticket for any reasonable, actual, and verifiable out-of-pocket expenses that were made in reliance upon the ticket purchase, in addition to refunding the purchase price of the ticket. These expenses include, but are not limited to, non-refundable hotel reservations, destination tour packages or activities, cancellation fees for non-refundable connecting air travel and visa or other international travel fees. The airline may ask the consumer requesting out-of-pocket expenses to provide evidence (i.e. receipts or proof of cancellations) of actual costs incurred by the consumer. In essence, the airline or seller of air transportation is required to make the consumer “whole” by restoring the consumer to the position he or she was in prior to the purchase of the mistaken fare

**B. Apply DOT regulation to situation at hand**

Based on the above 2 regulations , I would be eligible either for a refund of the non refundable stays and airline fares from CDG-TLV  
or have my 3 tickets reissued.

11. I ask that the Department of Transportation:

- (1) Exercise its authority under 49 USC 41712 to open an investigation of QANTAS AIRWAYS for having engaged in the unfair or deceptive practices described above;
- (2) Order QANTAS AIRWAYS to provide to the DOT and to me all notes, PNR annotations, call recordings, credit card dispute records, and other materials prepared by its systems and its staff in the course of the discussions herein;
- (3) Order QANTAS AIRWAYS to comply with applicable DOT regulations;
- (4) Order QANTAS AIRWAYS to reissue the 3 tickets and pay the difference due to price increases on the last ticket for \$857.45.
- (5) Require QANTAS AIRWAYS to search its records for other customers similarly situated, including those who complained about not getting the tickets reinitiated and require QANTAS AIRWAYS to provide the details of such customers and complaints to DOT; and
- (8) Impose appropriate civil penalties on QANTAS AIRWAYS

Respectfully submitted,  
/s/  
ELIYOHU LABKOWSKI

Attachment 1

**Certificate of Service**

I hereby certify that I have, this [day number] day of [month year] caused a copy of the foregoing Complaint to be served by electronic mail on the following persons:

Moffett B. Roller	airlaw@rollerbauer.com
Kimberly Graber, Esq.	kimberly.graber@dot.gov
Blane Workie, Esq.	blane.workie@dot.gov
Robert Gorman, Esq.	robert.gorman@dot.gov

/s/

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ELIYOHU LABKOWSKI